

**REMARKS**

The Office Action issued by the Examiner on February 27, 2006 and the citations referred to in the Office Action have been carefully considered.

Claims 1, 3-8, 13, 17-26, 32-34, 37, 40, 41, 43-46, 49, 50, 53, 54, 57-66, 69, 70, 72, 73, 77, 80, 81, 83-86, 89, 90, 93, 94, 97, and 99-103 are currently pending. Applicant has amended claims 57, 77, and 97. These amendments have been made solely for clarification purposes and not for any purpose related to patentability.

**Claim Rejections of claims 1, 3-8, 13, 17-26, 32-34, 37, 40-41, 43-46,  
49-50, 53-54, 57-66, 69-70, 72-73, 77, 80-81, 83-86, 89-90,  
93-94, 97, and 99-103 under 35 U.S.C. § 102(b)**

The Examiner rejected claims 1, 3-8, 13, 17-26, 32-34, 37, 40-41, 43-46, 49-50, 53-54, 57-66, 69-70, 72-73, 77, 80-81, 83-86, 89-90, 93-94, 97, and 99-103 over U.S. Patent No. 5,694,537 to Montenegro et al. ("Montenegro"). Applicant shall provide a brief summary of Montenegro prior to discussing the claims.

Montenegro is directed toward ensuring that a network device is able to obtain the correct time for proper operation. See Montenegro, col. 1, lines 42-57. Further, a process in Montenegro maintains a list of time service providers and selects a highest priority time service provider from a ranked list of time service providers. See Montenegro, col. 6, lines 29-41. The process requests time data from the highest priority time service provider at predetermined time intervals. See Montenegro, col. 6, lines 29-41. If time data is not received from the highest priority time service provider in a predetermined period of time, which is less than the predetermined time interval, the process requests the time data from the next time service provider on the ranked list of time service providers. See Montenegro, col. 9, lines 32-62. Accordingly, Montenegro does not teach attempting to establish real-time communications with the time service provider. On the contrary, Montenegro attempts to receive information within a certain time period, and if the information is received, Montenegro continues to attempt to

request updated information in predetermined time periods. No real-time communication is attempted in Montenegro.

### **Claim 1**

Independent claim 1 recites a first logic unit provides a list of service providers via a communication connection. The list of service providers indicates a real-time availability and a rate of at least one service provider of the service providers.

Montenegro does not provide a list that indicates a real-time availability of at least one service provider of the service providers. The ranked list of time service providers simply indicates a preference of the network administrator for time service. For instance, Montenegro indicates that a preferred embodiment includes IPX as the highest priority time service provider and AppleTalk as the lowest priority time service provider. See Montenegro, col. 8, lines 32-46. The network administrator can establish a ranking of time service providers based on preference, not availability. See Montenegro, col. 11, lines 12-23. Further, as illustrated in Figure 5B of Montenegro, availability is determined through sequentially trying to obtain time information from time service providers in the ranked list. If a higher ranking time service provider is not available, an attempt is made to obtain the time information from a lower ranking time service provider. Therefore, the ranked list in Montenegro does not indicate any real-time availability. This is distinct from claim 1, in which the list indicates that a service provider is actually available.

Further, the cited portion of Montenegro simply does not teach a rate of at least one service provider of the service providers. There is no indication of rates of service providers in Montenegro.

In addition, claim 1 recites a third logic unit that attempts to “establish a real-time communications connection to the selected service provider in response to the selection.” Montenegro is directed towards devices connecting to time servers to receive time information as opposed to establishing a real-time connection between a user and a service provider.

Therefore, Applicant submits that claim 1 is in condition for allowance and that the rejection of claim 1 be withdrawn.

#### **Claims 3-8 and 13**

Claims 3-8 and 13 depend from claims 3-8 and 13. Accordingly, claims 3-8 and 13 are allowable for the reasons discussed with respect to claim 1. Therefore, Applicant submits that claims 3-8 and 13 are in condition for allowance and that the rejections of claims 3-8 and 13 should be withdrawn.

#### **Claim 17**

Independent claim 17 recites “a first logic unit to provide a list of service providers over an Internet connection, indicating a real-time availability and a rate of each service provider of the service providers” and “a third logic unit to attempt to establish a real-time communications connection to the selected service provider.” Accordingly, the analysis provided with respect to independent claim 1 is also applicable with respect to independent claim 17. Therefore, Applicant submits that the rejection for independent claim 17 should be withdrawn.

#### **Claims 18-26 and 32-34**

Claims 18-26 and 32-34 depend from independent claim 17. Accordingly, claims 18-26 and 32-34 are allowable for the reasons discussed with respect to claim 17. Therefore, Applicant submits that claims 3-8 and 13 are in condition for allowance and that the rejections of claims 18-26 and 32-34 should be withdrawn.

#### **Claim 37**

Independent claim 37 recites “sending a user a list of service providers via an Internet connection, indicating a real-time availability and a rate of each service provider on the list” and “attempting to establish real-time communications between the user and the selected service provider.” Accordingly, the analysis provided with respect to independent claim 1 is also applicable with respect to independent claim 37. Therefore, Applicant submits that the rejection for independent claim 37 should be withdrawn.

**Claims 40-41, 43-46, 49-50, and 53-54**

Claims 40-41, 43-46, 49-50, and 53-54 depend from independent claim 37. Accordingly, claims 40-41, 43-46, 49-50, and 53-54 are allowable for the reasons discussed with respect to claim 37. Therefore, Applicant submits that claims 40-41, 43-46, 49-50, and 53-54 are in condition for allowance and that the rejections of claims 40-41, 43-46, 49-50, and 53-54 should be withdrawn.

**Claim 57**

Amended independent claim 57 recites “searching a database of alternate service providers, in response to a failed attempt to connect the selected service provider and the user, for an alternate service provider based on a pre-established set of criteria comprising one or more of: a rate within a predetermined range of a rate of the selected service provider and a reliability factor indicating a ratio of successful attempts to connect the alternate service provider and previous users to total attempts to connect the alternate service provider and previous users.” The list of time service providers in Montenegro is not searched according to any pre-established set of criteria. The network administrator simply determines a list of time service providers. Accordingly, there is no pre-established set of criteria taught in Montenegro. Further, there is no indication of a rate or reliability factor in Montenegro. Therefore, Applicant submits that the rejection of claim 57 should be withdrawn.

**Claims 57-66, 69-70, and 72-73**

Claims 57-66, 69-70, and 72-73 depend from independent claim 57. Accordingly, claims 57-66, 69-70, and 72-73 are allowable for the reasons discussed with respect to claim 57. Therefore, Applicant submits that claims 57-66, 69-70, and 72-73 are in condition for allowance and that the rejections of claims 57-66, 69-70, and 72-73 should be withdrawn.

**Claim 77**

Amended independent claim 77 recites “offering the user an option to connect to an alternate service provider elected in advance by the selected service provider, including

searching a database of alternate service providers, in response to a failed attempt to connect the selected service provider and the user, for an alternate service provider based on a pre-established set of criteria comprising one or more of: a rate within a predetermined range of a rate of the selected service provider and a reliability factor indicating a ratio of successful attempts to connect the alternate service provider and previous users to total attempts to connect the alternate service provider and previous users.” Accordingly, the analysis provided with respect to independent claim 57 is also applicable with respect to independent claim 77. Therefore, Applicant submits that the rejection for independent claim 77 should be withdrawn.

#### **Claims 80-81, 83-86, 89-90, and 93-94**

Claims 80-81, 83-86, 89-90, and 93-94 depend from independent claim 77. Accordingly, claims 80-81, 83-86, 89-90, and 93-94 are allowable for the reasons discussed with respect to claim 77. Therefore, Applicant submits that claims 80-81, 83-86, 89-90, and 93-94 are in condition for allowance and that the rejections of claims 80-81, 83-86, 89-90, and 93-94 should be withdrawn.

#### **Claim 97**

Amended independent claim 97 recites “a first logic unit to provide a list of service providers via an Internet connection, the list to indicate a real-time availability and a rate of each of the service providers,” “a third logic unit to attempt to establish a real-time communications connection to the selected service provider,” and “a fourth logic unit to search a database of alternate service providers, in response to a failed attempt to connect the selected service provider and the user, for an alternate service provider based on a pre-established set of criteria and to offer the user an option of connecting with the alternate service provider, wherein the set of criteria comprises one or more of: a rate within a predetermined range of a rate of the selected service provider and a reliability factor indicating a ratio of successful attempts to connect the alternate service provider and previous users to total attempts to connect the alternate service provider and previous users, the fourth logic unit to reconnect the selected service provider to the user when the selected service provider signals availability.” Accordingly, the analyses provided

above is applicable. Therefore, Applicant submits that the rejection for independent claim 97 should be withdrawn.

### Claims 99-103

Claims 99-103 depend from independent claim 97. Accordingly, claims 99-103 are allowable for the reasons discussed with respect to claim 77. Therefore, Applicant submits that claims 99-103 are in condition for allowance and that the rejections of claims 99-103 should be withdrawn.

### CONCLUSION

Applicants have complied with all requirements made in the above-referenced communication. Applicants submit that the present application is in condition for allowance, and therefore, respectfully request that a timely Notice of Allowance be issued in this case. Should matters remain, which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicants' undersigned attorney.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 76705-201201 is referred to when charging any payments or credits for this case.

Respectfully submitted,



Samuel K. Simpson  
Reg. No. 53,596

Date: July 27, 2006

Customer Number 33717  
GREENBERG TRAURIG, LLP  
2450 Colorado Avenue, Suite 400E  
Santa Monica, CA 90404  
Phone: (310) 586-7700  
Fax: (310) 586-7800  
E-mail: laipmail@gtlaw.com  
LA 126564747v1